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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,429	03/20/2001	Laurent Herrmann	PHFR 000087	9844

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EXAMINER	
HO, CHUONG T	

ART UNIT	PAPER NUMBER
2616	

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/812,429	HERRMANN ET AL.	
	Examiner	Art Unit	
	CHUONG T. HO	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☒ Certified copies of the priority documents have been received in Application No. 00400840.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. In view of the Appeal Brief filed on 08/28/06, PROSECUTION IS HEREBY REOPENED. The new action set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

Claim Objections

2. Claim 1 is objected to because of the following informalities: Claim limitations that employ phrases of the type "A server intended for generating" are typical of claim limitations which may not distinguish over the prior art. It has been held that the recitation that an element is "intended for" is not positive limitation but only requires the ability to so perform. Appropriate correction is required.

3. Claims 1-14 are pending.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-5, 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knutson et al. (U.S.Patent No. 6,788,710 B1) in view of Ito et al. (U.S.Patent No. 6,377,309 B1).

Regarding to claim 1, Knutson et al. discloses for generating an intermediate transport stream by creating available bandwidth (see col. 5, lines 15-20, bandwidth created by remodulation) in input transport stream (data stream) (see col. 5, lines 15-20, col. 8, lines 64-65).

However, Knutson et al. is silent to disclosing for inserting of second type in the available bandwidth of intermediate transport stream, thereby generating output transport stream.

See figures 21, 27, 30, Ito et al. discloses MPEG2 transport stream structure, i.e., the transmission format of an MPEG2 datastream. A method of multiplexing an MPEG4 datastream in an MPEG2 datastream (see col. 16, lines 60-67); comprising:

- A server intended for generating, from an input transport stream of a first type (MPEG2) and from data of a second type (MPEG 4), and output transport stream

of first type (MPEG2) which notably carries data of second type (MPEG4), server having:

- For inserting data of second type (MPEG4) the available bandwidth of intermediate transport stream, thereby generating output transport stream (MPEG2) (see figure 21, figure 27, figure 30, col. 17, lines 5-32).

Both Knutson and Ito discloses MPEG-2 transport streams. Ito recognizes for inserting of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Knutson with the teaching of Ito to insert of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream in order to improve the current digital TV broadcast system.

6. Regarding to claim 6, Knutson et al. discloses for generating an intermediate transport stream by creating available bandwidth (see col. 5, lines 15-20, bandwidth created by remodulation) in input transport stream (data stream) (see col. 5, lines 15-20, col. 8, lines 64-65).

However, Knutson et al. is silent to disclosing for inserting of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream.

See figures 21, 27, 30, Ito et al. (U.S.Patent No. 6,377,309 B1) discloses MPEG2 transport stream structure, i.e., the transmission format of an MPEG2 datastream. A

method of multiplexing an MPEG4 datastream in an MPEG2 datastream (see col. 16, lines 60-67); comprising:

- A server intended for generating, from an input transport stream of a first type (MPEG2) and from data of a second type (MPEG 4), and output transport stream of first type (MPEG2) which notably carries data of second type (MPEG4), server having:
- For inserting data of second type (MPEG4) the available bandwidth of intermediate transport stream, thereby generating output transport stream (MPEG2) (see figure 21, figure 27, figure 30, col. 17, lines 5-32).

Both Knutson et al. and Ito discloses MPEG-2 transport streams. Ito recognizes for inserting of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Knutson with the teaching of Ito to insert of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream in order to improve the current digital TV broadcast system.

7. In the claims 2, 7, Kutson et al. discloses wherein input transport stream carries control information, and server has third means, upstream of second means, for updating control information (program association table, program map table) to take data of second type into account (see col. 7, lines 30-35).

8. In the claims 3, 8, Knutson et al. discloses wherein transport stream of the first type are composed of transport packets, and the creation of available bandwidth is

made by inserting null packets into the input transport stream, so that intermediate transport stream has a higher bit rate than input transport stream (col. 5, lines 15-35).

9. In the claims 4, 9, Kutson et al. discloses transport streams of the first type (MPEG-2) are composed of transport packets, input transport stream carries a plurality of element streams (PID) containing encoded data, and the creation of available bandwidth is made by is made by: selecting one or more elementary stream (s) in input transport stream, demultiplexing the selected elementary stream (s), transcoding the encoded data contained in the demultiplexed elementary stream (s) in order to reduce the bit rate they occupy and remultiplexing transcoded data while inserting null transport packets so that the generated intermediate transport stream has a bit rate that is smaller or equal to the bit rate of the input transport stream (see col. 5, lines 15-35).

10. In the claim 5, Ito et al. discloses a broadcast system comprising at least a server as claimed in one of claims 1 or 2 and a client terminal intended to receive the output transport stream delivered by server and to retrieve the data carried in this transport stream in view of a use in a client application (see col. 18, lines 40-52).

11. In the claim 10, Ito et al. discloses a computer program means for implementing a method as claimed in one of claims 6 or 7 (see col. 22, lines 27, claim 15).

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

> applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Knutson et al. (U.S.Patent No. 6,788,710 B1).

In the claim 11, Knutson et al. discloses an input configured to receive an input transport stream (figure 4, col. 4, lines 50-65); a generator configured to generate an intermediate transport stream by creating available bandwidth (see col. 5, lines 15-20, bandwidth created by remodulation) in input transport stream (data stream) (see col. 5, lines 15-20, col. 8, lines 64-65).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

15. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knutson et al. (U.S.Patent No. 6,788,710 B1) in view of Ito et al. (U.S.Patent No. 6,377,309 B1).

In the claim 12, Knutson et al. disclose the limitations of claim 11 above.

However, Knutson et al are silent to disclosing wherein input transport stream is of a first type, and said input is further configured to receive data of a second type; said apparatus further comprising: an output configured an output stream of said first type which carries said data of said second type; and an inserter configured to insert said

data of said second type in the available bandwidth of said intermediate transport stream, thereby generating said output transport stream.

Ito et al. disclose wherein input transport stream is of a first type, and said input is further configured to receive data of a second type; said apparatus further comprising: an output configured an output stream of said first type which carries said data of said second type; and an inserter configured to insert said data of said second type in the available bandwidth of said intermediate transport stream, thereby generating said output transport stream (see figure 21, figure 27, col. 17, lines 5-32).

Both Knutson et al. and Ito discloses MPEG-2 transport streams. Ito recognizes for inserting of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Knutson with the teaching of Ito to insert of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream in order to improve the current digital TV broadcast system.

16. In the claim 13, Knutson et al. discloses wherein said available bandwidth is created by inserting null packets into said input transport stream (see col. 5, lines 15-40);

However, Knutson et al. are silent to disclosing so that intermediate transport stream has a higher bit rate than input transport stream.

Ito discloses so that intermediate transport stream has a higher bit rate than input transport stream (see col. 3, lines 40-48, in this embodiment, main information of

TV broadcast is sent by efficiently multiplexing sound data including image and/or sound data in a predetermined field in the main information as sub information, and the receiving side receives and reproduces the main information and sub information. As the data formats of the main information and sub information, main image information uses an MPEG2 datastream of digital TV broadcast, and the sub information uses an MPEG4 datastream which has been standardized in recent years and has very high transmission efficiency).

Both Knutson et al. and Ito discloses MPEG-2 transport streams. Ito recognizes for inserting of second type (MPEG-4) the available bandwidth of intermediate transport stream, thereby generating output transport stream; intermediate transport stream has a higher bit rate than input transport stream. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Knutson with the teaching of Ito to provide intermediate transport stream has a higher bit rate than input transport stream in order to improve the current digital TV broadcast system.

17. In the claim 14, claim 14 is rejected the same reasons of claim 4 above.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUONG T. HO whose telephone number is (571) 272-3133. The examiner can normally be reached on 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

11/01/06

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